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SUBJECT: CONTROVERSIAL NZ RESOURCE ACT TO BE REFORMED

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11. (SBU) Summary. On February 19, the GNZ introduced legislation aimed at reforming the controversial Resource Management Act (RMA). Meant to regulate infrastructure development, the RMA has been criticized as a barrier to economic growth. Part of the legislation proposed the creation of an Environmental Protection Agency, which is under GNZ review. Political parties have strong opinions on RMA reform, but have yet to respectively stake their definite positions on the issue. Ideally the GNZ would like to achieve political consensus on RMA reform, while retaining the legislation's core environmental values. End Summary.

Government Seeks to Reform Environmental Management

12. (SBU) On February 19, the Minister for the Environment Nick Smith introduced a bill for consideration by Parliament to amend the controversial Resource Management Act (RMA). The RMA was adopted in 1991 to review, regulate and authorize infrastructure building projects - from large-scale projects of national importance (dams) to local projects (a neighbourhood swimming pool). The Government's Resource Management Act Simplifying and Streamlining Amendment Bill (the Amendment Bill) is intended to do just what the title implies: to simplify and streamline a permitting process that the governing National Party claims to be mired in excess complexity, delay and obstacles to the construction of needed infrastructure improvements.

13. (SBU) Critics assert that under the previous Labour Government, the RMA metastasized into an overarching regulatory regime that frustrated developers of all sizes and inadvertently invited an increase in frivolous objections to development projects. Prime Minister John Key is one such critic, who repeatedly referred to the RMA as a "handbrake on growth" and vowed to introduce legislation to amend it while campaigning in 2008.

Target: Lower Growth Barriers, Retain Core RMA Values

14. (SBU) On introducing the Amendment Bill to Parliament, Smith made the case that the legislation is intended to strike a more appropriate balance between the promotion of development, consideration of public input and protection of the environment. Smith asserted that the Amendment Bill will create greater certainty around developments and stalled projects, and will "unlock that lost growth potential and untangle the red tape suffocating everyone from homeowners to business." Smith has repeatedly given an assurance that the Amendment Bill will not compromise the RMA's core principles - which include allowing public input and protecting the environment. The Government aims to have the legislation passed by June 2009.

15. (SBU) With respect to timing, Smith wants to have a modified regulatory regime in place by July 1, 2010. That means major decisions on the contents of the proposed legislation must be resolved by June/July 2009; a final version of the bill must be introduced by September 2009 for consideration by Parliament in October and November; and the bill must be on placed on final reading in March 2010.

Key Elements of the RMA Reform Package

16. (SBU) The main features of the Amendment Bill are:

- Removing opportunities that allow for frivolous, vexatious and anti-competitive objections;
- Streamlining processes for projects of national significance;
- Creating an umbrella Environmental Protection Authority (EPA) to handle priority development projects;
- Improving plan development and plan change processes;
- Improving resource consent processes;
- Streamlining decision making;
- Improving workability and compliance; and
- Improving national instruments for development.

Possible Features of an EPA

17. (SBU) The proposed establishment of a new EPA is meant to make more efficient the capacity to expedite consents for major building and infrastructure projects. According to Allen Sheppard, a Ministry for the Environment staffer working with Smith on the EPA proposal, any new administrative structure would probably start out small. Sheppard said that, while Smith had always voiced ambitions of establishing a broad over-arching regulatory apparatus similar to

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the U.S. Environmental Protection Agency, Smith realizes that such a goal is unrealistic in the current economic situation and under Key's pledge to trim government staff and spending. In addition, the National-led Government is not ready to endorse proposals to expand the bureaucracy any time soon, said Sheppard.

18. (SBU) Sheppard believes that the likely EPA outcome is a small statutory office within the Ministry for the Environment to review and approve major development projects of national importance (something that the previous Labour Government did informally and on an ad hoc basis). This new office would take that responsibility away from local Regional Councils, which, according to Sheppard, lack the resources and expertise to handle such complex matters quickly and efficiently.

Political Opponents Keep Their Powder Dry - For Now

19. (SBU) Labour is predictably uneasy about reforms to the RMA, which Labour worked hard to strengthen and which it regards as a legacy item. However, at this early stage of the Amendment Bill's passage through Parliament, Labour has not voiced too much opposition. Labour has agreed to work on any concerns it has when the Local Government and Environment Select Committee meets on the Amendment Bill after public submissions close on April 9.

110. (SBU) The Green Party has asserted that the Amendment Bill, as drafted, will tip the balance in favor of developers. Like Labour, however, the Greens have to date not yet voiced much opposition to the Amendment Bill. The Greens have preferred to see how the Amendment Bill develops through the course of its passage in Parliament and will likely speak up more during the later stages of debate when the media start to take greater interest. The Greens have, however, been vocal in calling for Maori rights under the RMA to be protected. The Amendment Bill will restrict standing Maori rights to appeal local government development plans. In an attempt to advance this position, the Greens have attempted to drive a wedge between National and its support partner, the Maori Party.

Other Government Partners Have Differing Views on RMA

¶11. (SBU) Although Maori Party continues to be silent on the proposed RMA reform, National's support partners are not as reticent about their respective positions on preferred RMA reform outcomes. Peter Dunne of the centrist United Future Party would like the legislation to ultimately reflect equal weighting of greater efficiency and strict environmental monitoring. The hard-right ACT Party bases its position on RMA reform to its foundational principles of individual freedom and lowered regulation. ACT's leader Rodney Hide wants the scope of the RMA diminished and supports Key's position that the present form of the RMA is a significant obstacle to economic development in New Zealand.

Comment

¶12. (SBU) Achieving a GNZ victory on all its key RMA objectives will depend on getting the details right. National, however, has started well with Environment Minister Smith's signalling to the public that he is open to inputs to the RMA as it goes through the Select Committee process. Smith will want to avoid any dogmatic position that will limit the Government's ability to build broad-based political consensus for reform. Although National only needs one extra vote to seal the passage of the legislation, it would prefer political consensus given the wide-ranging and long-term implications of the RMA. However, given the Government's belief that inaction on RMA reform will have dire economic consequences, Smith will keep the pressure on the Select Committee and Parliament to reach consensus quickly. End Comment.

Keegan